

COMMUNITY INFRASTRUCTURE LEVY (CIL)

GUIDANCE FOR APPLICANTS AND DEVELOPERS:

FREQUENTLY ASKED QUESTIONS

September 2024

DARTFORD
BOROUGH COUNCIL

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ABOUT CIL

WHAT IS CIL AND WHO WILL COLLECT IT?

The Community Infrastructure Levy (CIL) is a national system of financial charges on new development, to help pay for new infrastructure. You can find government CIL Guidance at www.gov.uk (search 'CIL guidance'). It is collected locally but is governed by national legislation: notably the Community Infrastructure Levy Regulations 2010 (as amended).

CIL collected is used by the charging authority to provide additional funding to help pay for part of the cost of infrastructure and services arising from new development in the Borough. For example, highways, health facilities and schools.

CIL is charged per square metre of additional floorspace of new development. A Council, as the charging authority, sets the charging rates for its area in accordance with Part 3 of the CIL Regulations. Once set these rates are not negotiable.

The amount of CIL payable in respect of a chargeable development is entered as a local land charge, and the local land charge is checked in the property/ land buying process. The local land charge can be removed when full CIL payment has been received, except in cases where relief or self-build exemption has been granted in which case the local land charge should remain in place during the clawback period in case of a disqualifying event.

WHEN DID CIL COME INTO EFFECT?

CIL has been implemented in Dartford from 1 April 2014. From this point all developments that are granted planning permission in the Borough may be subject to CIL (including within the area of the Ebbsfleet Development Corporation within the Borough of Dartford).

WHAT TYPE OF DEVELOPMENT IS CIL LIABLE?

Development will potentially be liable for CIL if it:

- Contains at least 100 square metres of new floor space
- Results in the creation of a new dwelling (including applicable residential annex dwellings) even if less than 100 square metres
- Involves change of use to floorspace which has not been in (lawful) use for six months of the previous three years (three year period ending on date of planning permission)
- Includes development not requiring a planning application to be submitted but which is permitted by a 'general consent' (e.g. permitted development under the General Permitted Development Order; Local Development Orders, Development Consent Orders) (see more below).

DEVELOPMENT WILL POTENTIALLY NOT BE LIABLE FOR CIL, OR NOT BE CHARGED IF IT:

- Is for a use which has a zero or nil charge (£0/sq m) set out in the Dartford CIL Charging Schedule;
- Involves only conversion or change of use with no additional floorspace (unless it has not been in (lawful) use for six months of the previous 3 years (three year period ending on date of planning permission).
- Involves Mezzanine floors inserted into an existing building, unless they form part of a wider development (e.g., external alterations, changes of use, etc.)
- Involves the subdivision of a dwelling which has been in lawful use into 2 or more dwellings providing no additional floorspace has been created
- Is for a building into which people do not normally go, or go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery (e.g. plant room)
- If the chargeable amount is less than £50 CIL will not be charged.

WHAT OTHER DEVELOPMENT CONSENTS MAY BE LIABLE TO PAY CIL?

If the development meets the basic criteria for CIL liable developments, e.g. 100 square metres of additional floor space, it may be CIL liable. The CIL Regulations 2010 (as amended) defines 'General Consents', as including:

- Permitted Development rights under the Town and Country Planning (General Permitted Development) Order (GDPO) 2015 (as amended). **It is the applicant's responsibility with such development to serve a Notice of Chargeable Development (Form 5) before the commencement of the development.**
- Development Consent Orders granted for Nationally Significant Infrastructure Projects (NSIPs) by the Secretary of State
- Development consented through any Enterprise Zone, Simplified Planning Zone (SPZ), Local Development Order (LDO) or Neighbourhood Development Order (NDO); and
- Development consented through an Act of Parliament, e.g. the Crossrail Act 2008

WHAT ARE THE CIL RATES FOR DEVELOPMENT?

CIL is charged on a per square metre basis. This is fixed via two documents found on the Borough Councils [webpages](#) (use the 'Planning' heading on the homepage, then see CIL links):

- The *Dartford CIL Charging Schedule* set out the original 2014 rate of CIL charged for development in Dartford. (The Charging Schedule was agreed after inspection by an independent examiner, and formal public consultations). However also note an index is then applied annually to the charging rates.
- The current *CIL Rate Summary* shows **actual rates that apply now** - the application of the indexation under national requirements.

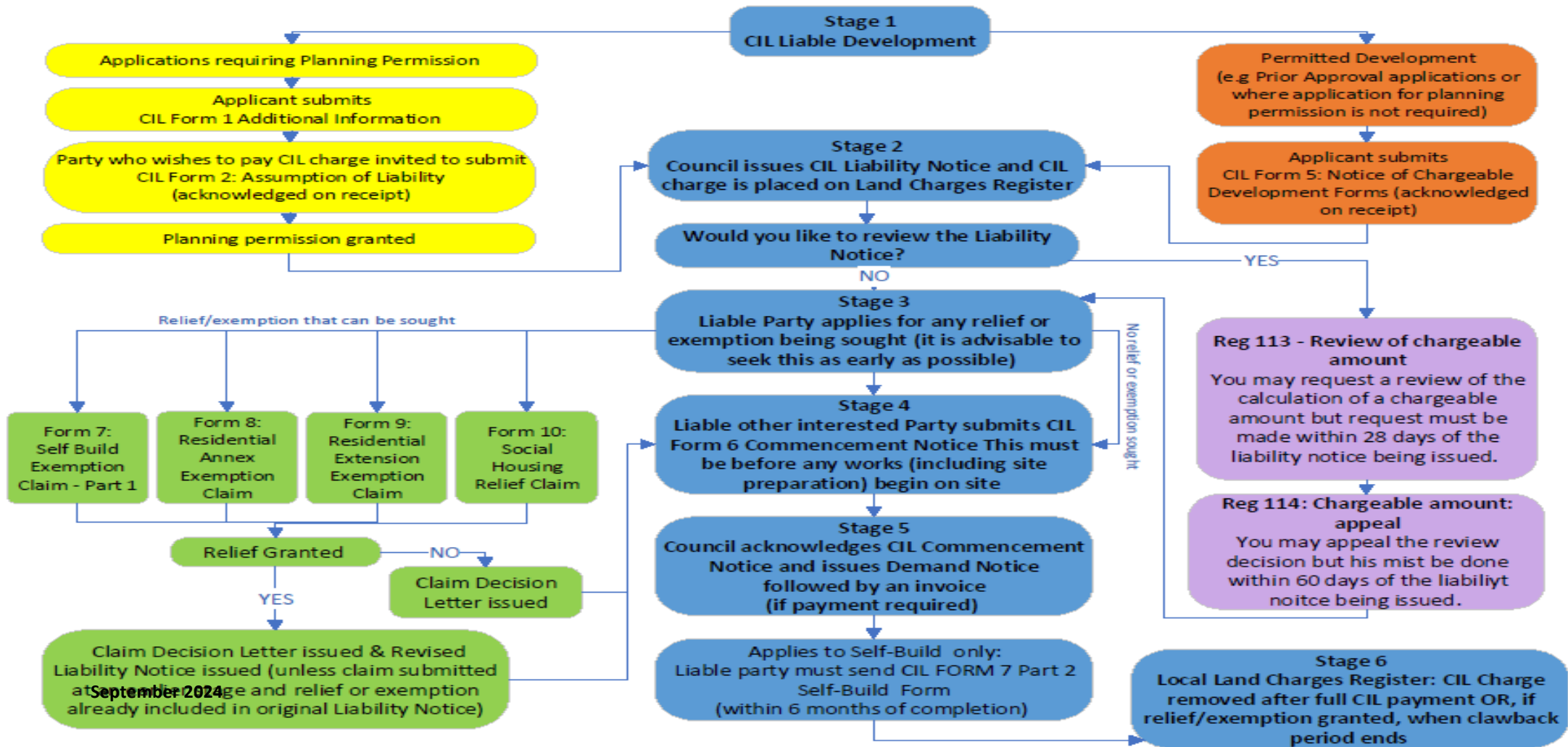
There are a variety of exemptions and relief from CIL. For example, exemption for residential annexes and extensions, exemption for self-build housing and social housing relief (see more under RELIEF AND EXEMPTIONS). Relief/exemptions MUST be applied for by the applicant **prior to commencement of development** as per the CIL Regulations.

WHAT ABOUT 106 AGREEMENTS?

The use of section 106 legal agreements has reduced with the introduction of CIL. However, some individual section 106 agreements will continue to be required to fund affordable housing (CIL cannot be used for this) and essential site specific infrastructure, especially at larger sites.

CIL PROCESS FOR APPLICANTS/DEVELOPERS

CIL is not discretionary. It has requirements of developers, which are legal processes that must be complied with in order that CIL is applied effectively. If the stages are not followed e.g you fail to assume liability or submit a Commencement Notice, you may be subject to financial penalties in accordance with the CIL Regulations. Please see below a basic CIL process diagram. Please note this diagram summarises and is provided for guidance only. Please ensure you also refer to the CIL Regulations 2010 (as amended) to ensure you comply with the relevant requirements. Action and checks are required if seeking exemptions. **The onus is on the developer to ensure that their own obligations within the CIL Regulations are complied with.**



RELIEF AND EXEMPTIONS

WHAT RELIEFS AND EXEMPTIONS ARE AVAILABLE AND ARE THEY AUTOMATIC?

The granting of any relief or exemption is not automatic. Instead, relief and exemptions can be sought in certain circumstances (as allowed for in national legislation) and must be applied for before development commences, using the relevant forms. To apply for relief or exemption you must also have assumed liability.

There are several other conditions which also apply dependent on the type of relief or exemption. Applications for relief or exemptions can be sought for:

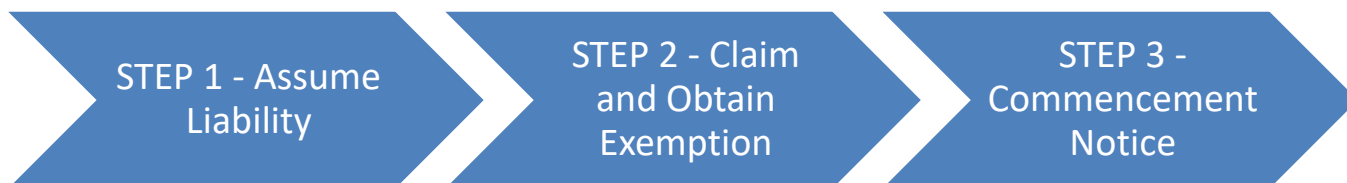
- Self-build (Form 7)
- Residential annexes (Form 8)
- Residential extensions (Form 9)
- Social / affordable housing (Form 10)

You must apply for Relief and exemptions, and then have them granted by the Council before development commences. More information can be found in the government's CIL Guidance.

Dartford Borough Council cannot allow exceptional circumstances or charitable relief.

HOW DO I APPLY FOR RELIEF?

For most exemptions/relief (annex, extension, social/affordable housing) the below steps are required. Self Build Exemption has additional steps (which are explained in the next section).



STEP 1 – Assume Liability

Applicants must assume liability to pay CIL (using CIL Form 2: 'Assumption of Liability'). This **must** be done before any exemption can be claimed for.

STEP 2 – Claim and Obtain Exemption

Submit a relevant exemption claim form to the collecting authority. The claim for relief must be made on the appropriate form (available on [Planning Portal](#)) by a land owner who has assumed liability to pay CIL.

Appendix 2 below provides a list of CIL forms and further explanation on which one to use.

You must make your claim *before* commencing development or the Council will be unable to accept your claim and a Demand Notice for the full CIL Liability will be issued.

As soon as possible after receiving the claim, the Council will assess the claim and notify you of the Council's decision, reasons, and the amount of relief granted. **Do not commence development before** you have received a response to your claim, or it may become invalid.

The amount of relief is shown in the Liability Notice – if need be, we will issue a revised Liability Notice.

STEP 3 – Commencement Notice

A Commencement Notice **must** be received by the Collecting Authority prior to the commencement of the development. Failure to submit a Commencement Notice prior to commencement of the development will result in a surcharge equal to either 20% of the notional chargeable amount or £2,500, whichever is the lower amount, being applied.

WHAT EVIDENCE WILL I NEED TO PROVIDE IF I AM CLAIMING SELF-BUILD RELIEF?

Self-build is a specific type of residential development which is subject to additional legislation.

All of the four steps below need to be followed within required time scales otherwise the exemption will either not be obtained (Steps 1 and 2) or will be rescinded if previously obtained (Step 4).



STEP 1 – Assume Liability

Applicants must assume liability to pay CIL (using CIL Form 2: 'Assumption of Liability'). This **must** be done before any exemption can be claimed for.

STEP 2 – Claim and Obtain Exemption

Submit a relevant exemption claim form to the collecting authority. The claim for relief must be made on the appropriate form (available on [Planning Portal](#)) by a land owner who has assumed liability to pay CIL.

Appendix 2 below provides a list of CIL forms and further explanation on which one to use.

You must make your claim *before* commencing development or the Council will be unable to accept your claim and a Demand Notice for the full CIL Liability will be issued.

As soon as possible after receiving the claim, the Council will assess the claim and notify you of the Council's decision, reasons, and the amount of relief granted. **Do not commence development before** you have received a response to your claim, or it may become invalid.

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STEP 4 – Confirm Details

A Form 7: Self Build Exemption Claim - Part 2 form and supporting documentary evidence **must** be submitted to the Collecting Authority within 6 months of the date of Compliance Certificate.

The following evidence is required to be submitted along with CIL Form 7: 'Self Build Exemption Claim Form: Part 2':

All three of the following-

- Compliance certificate and date
- Title deeds
- Council Tax certificate

AND Two of the following three-

- Utility bill demonstrating usage levels at the property e.g . gas/electricity (not, for instance, a broadband bill).
- Bank statement
- Local electoral roll registration

AND One of the following:

- An approved claim from HM Revenue and Customs under VAT431 NB: VAT refunds for DIY house builders
- Proof of a specialist Self Build or Custom Build Warranty
- Proof of an approved Self Build or Custom Build Mortgage from a bank or building society

Please ensure that you can meet these requirements before the initial claim for self-build exemption is made.

ARE THERE ANY CIRCUMSTANCES WHERE I MIGHT BE ASKED TO REPAY THE RELIEF?

Yes – if relief is granted there will be a number of conditions that need to be met over a specified period known as the “clawback period”. Failure to meet these conditions will result in a “disqualifying event” and, the relief that has been granted will be rescinded, and the outstanding CIL liability must be paid immediately. More details on these “disqualifying events” is given below and can be found within the CIL Regulations. You are advised to check these before commencing work.

<u>Type of relief/exemption</u>	<u>Clawback Period</u>
Social / affordable housing	7 years
Self-build	3 years (beginning with the date of the compliance certificate relating to the relevant dwelling)
Residential annexes	3 years (beginning with the date of the compliance certificate relating to the residential annex)

WHAT DISQUALIFYING EVENTS MAY IMPACT ON ME?

The CIL Regulations list the disqualifying events for each type of relief/exemption and you are advised to check these Regulations. The follow provides a short summary of the disqualifying events but should not be taken as being fully comprehensive.

The person benefitting from the exemption must notify the charging authority in writing **within 14 days of a disqualifying event occurring**. Failure to do so will result in enforcement action against the relevant person and a surcharge will become payable.

<u>Type of relief/exemption</u>	<u>Disqualifying Event</u>
Social / affordable housing	Regulation 53 <ul style="list-style-type: none"> • A disqualifying event is any change in relation to a qualifying dwelling or qualifying communal development such that it ceases to be a qualifying dwelling or qualifying communal development.
Self-build	Regulation 54D <ul style="list-style-type: none"> • Any change in relation to the self-build housing or self-build communal development such that it ceases to meet the criteria set out in regulations;

	<ul style="list-style-type: none"> • Failure to comply with the evidence requirements on completion; [at clawback or at 7 Part 2] • The letting out of a whole dwelling or building that is self-build housing or self-build communal development; or • The sale of the self-build housing or self-build communal development.
Residential annexes	<p>Regulation 42C</p> <ul style="list-style-type: none"> • the use of the main dwelling for any purpose other than as a single dwelling; • the letting of the residential annex; or • the sale of the main dwelling or the residential annex sold separately from one another.

If a disqualifying event occurs before the development commences, any granted relief would be withdrawn, and the full liability recalculated.

If the disqualifying event occurs after commencement, the relief is withdrawn, and the relevant person is liable to pay an amount of CIL equal to the withdrawn relief.

For further detail on the criteria for each relief type see paragraph 94 of government CIL Guidance.

ENFORCEMENT OF CIL

WHAT HAPPENS IF I FAIL TO SUBMIT FORM 6: 'COMMENCEMENT NOTICE' BEFORE I COMMENCE MY DEVELOPMENT?

Failure to submit a valid Commencement Notice before development commences *may* result in the Council imposing a surcharge of 20% of the CIL amount due, up to a maximum of £2,500. In addition, payments **will not** be permitted to be made in line with the Instalment policy. Payment will be due in full on the day that the council believes the development to have commenced.

WHAT HAPPENS IF CIL IS NOT PAID?

Failure to pay CIL on time will result in the imposition of late payment interest at 2.5% above the Bank of England base rate.

Continued failure to pay CIL may result in additional late payment surcharges:

- Five per cent of the outstanding amount where payment is still overdue after 30 days, subject to a £200 minimum.
- Further five per cent of the outstanding amount where payment is still overdue after six months, subject to a £200 minimum.
- Further five per cent of the outstanding amount where payment is still overdue after 12 months, subject to a £200 minimum.

If CIL is not paid on time, therefore, the liability amount will increase. **You should also be aware that a CIL liability will show up** as a land charge on any property search carried out by a competent solicitor on the property.

If CIL remains unpaid the council may take any or all of the following actions, in order to recover the debt, as based on the CIL Regulations:

- Removal of the right to pay by instalments
- Impose surcharges and late payment interest
- Issue a CIL Stop Notice on the development under construction subject to the CIL liability
- Seek authorisation from the courts to seize and sell assets to recover the CIL due
- Issue a Charging Order which remains as a land charge against your property. If you sell or re-mortgage your home before the debt is cleared, the charging order will be paid off from the proceeds.
- Seek commitment to prison - Where a liable party continues to evade paying CIL, we can ask a magistrates' court to commit the relevant person(s) to prison for no more than three months. To do this, we must be able to demonstrate to the court that we have been unable to recover the CIL amount due by seizing and selling your assets and land.

WHEN WILL THE COUNCIL ISSUE A STOP NOTICE, AND WHAT DOES THIS MEAN?

A Stop Notice will prohibit any further construction of the development on site with immediate effect, until payment of the outstanding amount is made.

Before serving a CIL Stop Notice, we will first issue a warning to the person liable to pay the amount, the land's owners, occupiers, and all those who we consider will be affected by the notice. We will also post a warning on the site itself. This warning will state that continued non-payment may result in a CIL Stop Notice being issued. It will also set out the amount overdue and the number of days after which a CIL Stop Notice may be served if payment continues not to be made.

WHAT OTHER METHODS WILL WE TAKE TO TRY AND RECOVER THE CIL FUNDS DUE?

We may seek a court's consent to seize and sell your assets to recover the money due. These assets may include any land you hold. We will send you notice of our intention to do so beforehand.

MAKING A CIL PAYMENT

HOW MUCH WILL I HAVE TO PAY?

Chargeable development that receives planning permission from Dartford Borough Council will be charged in accordance with the rates set out in Dartford's CIL Charging Schedule with the index for inflation multiplier applied. The amount payable is calculated when planning permission is granted and is set out in the Liability Notice which we will send you.

WHEN DOES PAYMENT BECOME DUE?

Payment is due on commencement of development and is payable within 60 days or in accordance with our instalment policy, providing that an Assumption of Liability and Commencement Notice has been received. **Before you commence** the development, you must send us CIL Form 6: 'Commencement Notice'.

On receipt of a Commencement Notice, we will send you a Demand Notice, and a separate invoice including details of when and how to make a payment.

Payment may become due in full immediately (loss of 60 days) if any of the following circumstances occur:

- Failure to assume liability
- Failure to submit a commencement notice
- In the event of a disqualifying event (where an exemption or relief has been granted)
- Instalment payment date is missed (where relevant)

WHAT CONSTITUTES COMMENCEMENT?

CIL Regulation 7, and Section 56(4) of the Town and Country Planning Act 1990 define commencement as from the first 'material operations' carried out, including: erecting a building, demolition, digging a trench, laying underground pipes or mains, any operation to construct a road, or any change in the use of land that is classed as material development.

CAN I PAY IN INSTALMENTS?

The Council offers, for particular developments, an Installment Policy that allows payments to be spread over longer periods. Payments over £100,000 can be spread over a 12 month period whilst payments over £1m can be spread over 18 months. We will automatically apply the Installment Policy where applicable.

Please note that this Instalment Policy will not be available if CIL Form 2: 'Assumption of Liability' and CIL Form 6: 'Commencement Notice' are not provided before the relevant development commences, or if payments are not made on time.

Instalment payments are not possible for CIL liability under £100,000. See the Borough Council's [webpages](#) (use the 'Planning' heading on the homepage, then see CIL links): *Installment Policy*.

WHO IS LIABLE TO PAY?

This question may arise as an issue when trying to sell/ purchase property, when legal checks are undertaken. However it is often prudent to avoid this occurring as set out in the following. (It is advisable to raise any potentially outstanding CIL aspects with solicitors prior to exchange).

Landowners are ultimately liable to pay CIL, but anyone involved in a development may take on the liability to pay. In order to benefit from payment in instalments, someone must assume liability using CIL Form 2: 'Assumption of Liability' prior to commencement.

Failure to submit an Assumption of Liability (Form 2), Notice of Chargeable Development (Form 5) and a Commencement Notice (Form 6) can lead to the imposition of a surcharge. Late payment of any CIL due can also result in the imposition of a surcharge or late interest payments.

Where no one has assumed liability to pay the levy, the liability will automatically default to the landowners and payment becomes due as soon as development commences. Liability to pay the levy can also default to the landowners where we have been unable to recover the levy from the party that assumed liability for the levy, despite making all reasonable efforts.

A CIL Form 4 Transfer of Liability jointly completed by old and new landowners must be submitted in the event of landownership change. If not already commenced, the new owners may submit a claim for relief.

CIL CALCULATIONS

HOW IS CIL CALCULATED?

The calculation for CIL payments involves multiplying the CIL charging rate by the chargeable floorspace, and factoring in an index figure to allow for changes in building costs over time. The calculation is therefore as below:

$$\frac{\text{CIL Rate (R)} \times \text{Chargeable Floorspace (A)} \times \text{BCIS Tender Price Index (Ip)}}{\text{BCIS Tender Price Index (Ic)}}$$

Where:

R = CIL rate per square metre

A = the deemed net floorspace chargeable at rate R

Ip = The BCIS All-in Tender Price Index for the year in which planning permission was granted (published on 1st November of the preceding year)

*Ic = The BCIS All-in Tender Price Index for the year in which the charging schedule containing rate R took effect
BCIS is the independent Building Cost Information Service*

Existing floor space that has been in continuous lawful use can be deducted from the floorspace on which CIL is charged. The onus is on the applicant to demonstrate this usage.

If the building is demolished before planning permission for the chargeable development is granted, the previous floor space **cannot** be taken into account for the purpose of calculating the CIL charge.

WHAT IS INCLUDED AS CIL CHARGEABLE FLOORSPACE?

CIL is charged on the 'gross internal area' (GIA) of the development for which planning permission is granted. The Borough Council use the definition of GIA contained in the Royal Institution of Chartered Surveyors (RICS) Code of Measuring Practice (currently in its 6th edition).

The Valuation Office Agency consider appeals against CIL liabilities and they also normally used this code of measuring practice.

HOW IS THE CIL INFLATION INDEX CALCULATED?

CIL payments are index linked from the year that CIL was introduced (2014 in Dartford case) to the year that the planning permission is granted, to allow for changes in build costs for the infrastructure funded by CIL over time. From 2014 to 2019 the relevant index was the national All-in Tender Price Index published by the Building Construction Information Services (BCIS). Since 2020, a specific CIL Index has been published by Royal Institution of Chartered Surveyors (RICS) known as the RICS Community Infrastructure Levy Index. The CIL rates for each calendar year are determined using the index published in October of the preceding year.

THERE ARE BUILDINGS ON THE APPLICATION SITE THAT WILL BE DEMOLISHED AS PART OF THE DEVELOPMENT PROPOSALS, WILL THIS REDUCE MY CIL LIABILITY?

Deductions in respect of the demolition of buildings before completion of the chargeable development will only apply where:

- There is an existing building that has been in lawful use for a continuous period of 6 months within the past 3 years 'of planning permission first permitting the development. The onus of proof is on the applicant.
- The building is a permanent building into which people normally go.
- The building is not demolished prior to planning application approval. The onus of proof is on the applicant.

WHAT EVIDENCE DO I NEED TO SUPPLY TO SHOW BUILDINGS ON MY SITE HAVE BEEN IN 'USE'?

Information that could be submitted to demonstrate 'an "in-use building" as defined by the CIL Regulations can include the combination of the following:

- Copies of leases
- Electricity/gas bills for the six month period (not a contract for broadband as this does not specifically show usage)
- Business rate/council tax bills and payments.
- Where an informal arrangement exists, redacted bank statements to show rent/rates have been paid
- Confirmation from a letting agent/solicitor advising of the period of occupancy

If it is not evident from the information supplied, we will not consider the existing floor space as deductible.

Where the lawful use of the floorspace is not clear from the planning history of the property then a separate application for an existing Lawful Development Certificate should be made. The Council will then consider the evidence submitted and determine whether the use is lawful or not. More information can be found on the Council's website and on the national Planning Portal.

IS CIL CHARGEABLE FOR SUBDIVIDING A HOUSE INTO TWO OR MORE HOMES?

No, unless additional new build floorspace is provided as part of the scheme of conversion in which case the additional floorspace may be liable.

LIABILITY, SITE PHASING/ MULTIPLE PLOTS & GETTING PLANNING PERMISSION

Phasing must be secured as a planning condition on the planning permission for the chargeable development. Detailed description of each phase proposed and phasing plan showing each phase.

Demolition and/or preparation of the site for access and utilities, if intended as a separate phase, must be Phase 1 and separate from other works.

Without phasing, the entire site is bound by a single commencement notice, commencement taken as 1st material operation (except for pre-commencement conditions).

The CIL charge amount becomes due when the first CIL liable phase commences. Each phase must submit a separate commencement notice.

If the proposal contains multiple plots seeking to benefit from self-build relief, phasing must be secured to prevent liability issues. We **cannot grant relief** for multiple plots on a single permission without phasing.

The table below sets out when 'planning permission first permits the development' for the purposes of the CIL regulations:

<u>Application Type</u>	<u>Phasing</u>	<u>Conditions</u>	<u>Date that "planning permission first permits the development"</u>
Full Planning Application	No phasing	N/A	Date of Decision Notice approving the permission
Full Planning Application	Phased	No pre-commencement conditions	Date of Decision Notice approving the permission
Full Planning Application	Phased	With pre-commencement conditions	Date of approval of final pre-commencement condition for that phase
Outline Planning Application	No phasing	N/A	Date of Decision Notice approving the last Reserved Matter
Outline Planning Application	Phased	No pre-commencement conditions	Date of Decision Notice approving the Reserved Matters for that phase
Outline Planning Application	Phased	With pre-commencement conditions	Date of approval of final pre-commencement condition for that phase
Permitted development	N/A	N/A	Date of Notification of Commencement to the Borough Council OR Date that the Borough Council serves the Notice of Chargeable Development

APPEALING A CIL CHARGE LIABILITY

I THINK THE CIL FOR MY DEVELOPMENT HAS BEEN CALCULATED INCORRECTLY, WHAT CAN I DO?

If you think that the CIL charge for your development has been calculated incorrectly, you can apply to us and ask us to review how your CIL was calculated. A request for review must be made—(a) in writing to the Council; and (b) **before the end of the period of 28 days** beginning with the day on which the liability notice stating the chargeable amount subject to the request for review was issued. (Note time elapsed for review will be relevant within the 60 day requirement for appeals outlined in the following question).

The collecting authority is required to review the calculation. This review must be carried out by someone who is senior to the person who made the original calculation, and who had no involvement in that original calculation. A decision must be issued within 14 days, and this decision cannot be reviewed again (see regulation 113).

If you are not happy with the Council's review then you can appeal to the Valuation Office Agency.

WHAT ARE THE REQUIREMENTS FOR LODGING APPEALS?

Appeals made in connection with the calculation of the chargeable amount, an apportionment of liability and self-build exemptions and appeals in relation to notional relief relating to transitional cases (Schedule 1(9)) should be submitted to the independent Valuation Office Agency, on a form provided by the Agency **within 60 days of the date the liability notice is issued**.

Appeals related to enforcement (surcharges, commencement notices and stop notices) should be submitted to the Planning Inspectorate. All appeals to the Planning Inspectorate must be made using the form published by the Secretary of State (or forms substantially to the same effect). This can be found on the Planning Inspectorate website.

Further information on appeals to either Valuation Office Agency or the Planning Inspectorate (as mentioned above) found at paragraph 163 of government CIL Guidance.

FURTHER INFORMATION & CONTACTS

As a national system, it operates under legislation (national Regulations) but many queries may be addressed in the Government's CIL Guidance.

You are advised to consider specialist independent CIL advice.

Additional information, including local policies and useful further weblinks on CIL, can be found on our [Dartford Borough Council 'Planning'](#) webpages.

If you have further questions related to an ongoing CIL case in Dartford and over how to submit the right information, please contact the customer service team on 01322 343434 or planning.admin@dartford.gov.uk.

APPENDIX 1: EXAMPLES OF HOW THE CHARGEABLE AREA WOULD BE CALCULATED [INDICATIVE ONLY]

<u>Current site</u>	<u>Proposed development</u>	<u>CIL liable</u>	<u>Chargeable area</u>	Possible relief/exemptions Not automatic – must be applied for and must meet certain criteria to be granted
Cleared building site	90 sq m new residential dwelling	Yes	90 sq m	90 sq m Self Build
Single dwelling – in use	Single dwelling with a 25 sq m extension	No	Not liable as under 100 sq m new build and does not create a new dwelling	N/A
Single dwelling – in use	Single dwelling (currently 100 sq m) with a 125 sq m extension	Yes	125 sq m	125 sq m Extension Exemption
Cleared building site	2,000 sq m residential, including 40% affordable housing (800 sq m)	Yes	2000sq m	800 sq m Social Housing Relief
Single dwelling – in use but to be demolished	125 sq m new development 90 sq m original dwelling demolished	Yes	35 sq m NB: not exempt as development comprises of one or more dwellings but charge reduced due to original building to be demolished being in use	35 sq m Self Build
Single dwelling – not in use and to be demolished	125 sq m new development 90 sq m original dwelling demolished	Yes	125 sq m NB: not exempt as development comprises of one or more dwellings and no reduction in charge as original building not in use however possible self build relief	125 sq m Self Build
Single dwelling – not in use but to be retained	35 sq m extension 90 sq m original retained	No	Not liable as project involves bringing a vacant dwelling back into use, does not create a new dwelling. Extension below 100sqm	N/A
Shop unit – not in use	90 sq m conversion /change of use of unit to residential	Yes	90 sq m NB: building has not been in use and creation of new dwelling	90 sq m Self Build
Shop unit – in use	90 sq m conversion /change of use of unit to residential	Yes	0 sq m additional floorsapce so no charge NB: Although under 100 sq m it is creating new dwelling however, as the unit has been in use, the floorspace is deductible and so there is no charge in this scenario.	
4,000 sq m offices – in use	4,000 sq m conversion of offices to flats	Yes	0 sq m so no charge as the unit has been in use, the floorspace is deductible and so there is no charge in this scenario.	

3,500 sq m business development in use but to be demolished	15,000 sq m new residential 5,000 sq m new business 3,500 sq m original business use demolished	Yes	<p>Net chargeable floorsapce - 12,375 sqm residential and 4,125 sqm business</p> <p>N.B the demolished amount is apportioned across the whole development e.g., $\frac{3}{4}$ development residential, $\frac{1}{4}$ business; therefore, of the 3,500 sq m demolished floorspace, 2,625 sq m is deducted from residential floorspace and 875 sq m from business</p>	
90 sq m single dwelling – in use	90 sq m subdivided into two separate dwellinghouses	No	Regulation 6 sets out that the change of use of any building previously used as a single dwellinghouse to use as two or more separate dwellinghouses is not to be treated as development for the purposes of section 208 of PA 2008	

APPENDIX 2: CIL FORMS EXPLAINED

All CIL Forms need to be dated and signed by the *liable person or claimant*. Forms cannot be signed by an agent on the liable person's behalf.

Any CIL Forms received by the Council will be acknowledged.

CIL Form	When should it be submitted?
<p><u>Form 1 – CIL Additional Information - Determining whether a development may be CIL liable – Planning Application Additional Requirement Form</u></p> <p>This requires the applicant to supply to the Council the relevant floorspace¹ detail of all existing buildings² (that are to be demolished or re-used) and all proposed buildings. This information then enables the Council to calculate the correct CIL liability for the chargeable development.</p>	<p>At submission of the planning application</p> <p>Required by the Council's Local Validation list in order for an application to be validated</p>
<p><u>Form 2 – Assumption of Liability</u></p> <p>The person who will pay CIL must first formally assume liability to do so by submitting a signed CIL Form 2.</p> <p>We must receive this form so that we can grant the relief (if eligible).</p> <p>Without this form Payment of the CIL liability will be due immediately the development is commenced (rather than 60 days)</p>	<p>Prior to commencement.</p> <p>Must be submitted in advance of or in conjunction with a Claim Form 7, 8, 9 or 10 (whichever one is applicable)</p>
<p><u>Form 3 – Withdrawal of Assumption of Liability</u></p> <p>A party who has assumed liability to pay CIL but no longer wants to have assumed liability to pay CIL must submit CIL Form 3 to the Council</p>	<p>Prior to commencement of development</p>
<p><u>Form 4 – Transfer of Assumed Liability</u></p> <p>A party who has assumed liability to pay CIL can transfer that assumed liability to another party through submitting CIL Form 4 to the Council</p>	<p>No later than the day on which the final payment of CIL is due in respect of the chargeable development</p>
<p><u>Form 5 – Notice of Chargeable Development</u></p> <p>CIL Form 5 is required to be submitted prior to commencement of development where a CIL liable development is proposed that ordinarily would not require planning permission (i.e., permitted development)</p>	<p>Prior to commencement of development</p>

¹ See RICS code of measuring practice.

² Please provide the floorplans of the existing building(s).

CIL Form	When should it be submitted?
<p><u>Form 6 – Commencement Notice</u></p> <p>CIL Form 6 is required to notify the Council that a chargeable development is about to be commenced. Submission of CIL Form 6 is therefore the trigger that starts the payment of CIL from the person who has assumed liability to the Council.</p> <p>Submission of this form is required to secure the 60 day payment window or such timing of payments as set out in the Council’s Instalment Policy.</p> <p>Failure to follow the correct procedure may see the Council impose surcharges and take enforcement action.</p>	<p>Prior to commencement of development³</p>
<p><u>Form 7 - Self Build Exemption Claim Form: Part 1</u></p> <p>CIL Form 7 Part 1 is effectively a declaration by the applicant that they meet the self-build criteria and are aware of the disqualifying events that could see this form of relief revoked. For relief to be granted, the person seeking relief first must formally submit a claim form <u>and</u> assume liability to pay CIL.</p>	<p>Prior to commencement. Claim must be granted by the council before commencement.</p>
<p><u>Form 7 - Self Build Exemption Claim Form: Part 2</u></p> <p>CIL Form 7 Part 2 is accompanied by all the necessary evidence⁴ that is required to prove that the dwelling is self-build. Applicants should make sure that they can meet these requirements prior to claiming the self-build exemption.</p>	<p>Within six months of completing the self-build dwelling</p>
<p><u>Form 8 –Exemption for Residential Annex</u></p> <p>Relief from CIL via this form is available for a residential annex. For relief to be granted, the person seeking relief first must formally submit a claim form <u>and</u> assume liability to pay CIL.</p>	<p>Together with the planning application (or shortly after planning permission). Claim must be received and the Council’s decision issued before development commences.</p>

³ Commencement is any work carried out, including: erecting a building, demolition, digging a trench, laying underground pipes or mains, any operation to construct a road, or any change in the use of land that is classed as material development. **We must also receive this form even if you have been given an exemption/relief.** This is because there is a clawback period of three years for self-build relief and of seven years for social housing relief. This means that when the dwelling is sold within the clawback period you will be liable to pay CIL.

⁴ A compliance certificate, Title deeds and a Council Tax certificate. Two of the following: Utility bill, bank statement or local electoral roll registration. One of the following:

- An approved claim from HM Revenue and Customs under VAT431 NB: VAT refunds for DIY housebuilders
- Proof or a specialist Self Build or Custom Build Warrant
- Proof of an approved Self Build or Custom Build Mortgage from a bank or building society

<u>CIL Forms</u>	<u>When should they be submitted?</u>
<p><u>Form 9 –Exemption for Residential Extension</u></p> <p>Relief from CIL via this form is available for residential extensions. For relief to be granted, the person seeking relief first must formally submit a claim form <u>and</u> assume liability to pay CIL.</p>	<p>Together with the planning application (or shortly after planning permission). Claim must be received and the Council’s decision issued before development commences.</p>
<p><u>Form 10 – Claiming Exemption or Relief for Charitable and/or Social Housing</u></p> <p>Relief from CIL via this form is available for development by charities and social housing. For relief to be granted, the person seeking relief first must formally submit a claim form and assume liability to pay CIL.</p> <p>When claiming social housing relief please supply: -</p> <ul style="list-style-type: none"> i). a map clearly identifying the location of the affordable dwellings and ii). an accommodation schedule including the floorspace by dwelling (including garages and communal areas). <p>Annex B of CIL Form 10 needs to be completed. As the floorspace figures can change during the course of the planning application we advise to submit CIL Form 10 when the application is at its final stage. Also, social housing will need to be secured through a S106 legal agreement.</p>	<p>Together with the planning application (or shortly after planning permission). If the claim is made with the planning application and the scheme is amended then an updated claim must be made.</p> <p>Claim must be received and the Council’s decision issued before development commences.</p>